MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 7, 2005 at 9:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: SB 72, 3/2/2005; SB 358, 3/2/2005
Executive Action: None.

VICE-CHAIRWOMAN TRUDY SCHMIDT called the meeting to order.

HEARING ON SB 72

{Tape: 1; Side: A; Approx. Time Counter: 1.5 - 15}

Opening Statement by Sponsor:

SEN. JEFF MANGAN (D), SD 12, opened the hearing on **SB 72,** Continuation of health insurance as a retirement incentive. **SEN. MANGAN** advised the bill had previously been before two committees and on the floor of the Senate. The bill provides one year of health insurance for every year served. It is based on a long-used business model to save money. He carried the bill in previous sessions when fiscal notes showed it saves money. This session there have been several fiscal notes and the bill shows a $45,000 hit to the general fund in the first biennium. He handed out a fiscal note from last session.

EXHIBIT(fcs50a01)

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, advised he worked on the bill with **SEN. MANGAN.** Normal age for retirement would be either age 60 or the age that an employee would complete 30 years of service. The pool is fairly small. The bill, as amended, limits the total amount of health insurance that would be purchased to a maximum of four years. After age 65, no more health insurance will be earned. The Association supports the bill because they know there are employees who are only working because they simply cannot afford the retiree health insurance. Currently, a single state employee who is not age 65 and Medicare eligible, will pay $427.00 a month for health insurance. Non-faculty University employees will pay $462.00 a month. To include a spouse, the state employee will pay a little over $600.00 a month and a University employee will pay around $662.00 a month. There are people working who would like to retire but cannot because their health insurance will take a major portion of their retirement benefit. The Association feels the bill helps that situation. The bill saves money by replacing a retiring employee with a lower paid employee and saving the difference in the wages. In the private sector, they use the positions that become available through early retirements to reorganize the operation and save money through the reorganization.

Opponents' Testimony: None.

Informational Testimony:

Randy Morris, Department of Administration, advised he was available to answer questions.

Questions from Committee Members and Responses:

SEN. BOB HAWKS asked **Mr. Morris** about the projections in the fiscal note. He advised he has been approached by state and university employees who are waiting to retire or not depending on the outcome for this bill. Without a plan in place for knowledge transfer, or any lead time, he wondered how this transition would happen in a reasonable way since it mandates any overage has to come from vacancy savings. **Mr. Morris** said that was one of the issues identified in the technical note section of the fiscal note. He acknowledged the transfer of knowledge is a concern to the Department of Administration and state government. There are about 1550 people who could or probably would take advantage of this bill and the benefits associated with it. He indicated there is not a lot that can be done about the transfer of knowledge issue. That is a long-term issue that the Department is beginning to address in terms of workforce planning. It is the number one initiative of the Department of Administration and one of the top three initiatives of the Executive. The fiscal note identifies that a third of state employees are eligible for full or early retirement and that number will grow to 61% in the next four years. State agencies have begun to plan for that. He confirmed the premise is to bring people in at a lesser rate than those who are leaving. **SEN. HAWKS** referred to recruiting problems in the University system and stated the late notice on the effective date brings potential havoc to their replacement schedules. He wondered if there is any advantage in trying to change the effective date that might be different for universities versus state employees. **Mr. Morris** said it was his understanding they were looking at a different implementation date for the University System. **SEN. MANGAN** responded the faculty was amended out of the bill.

SEN. DAN WEINBERG asked **Mr. Morris** if there was a reason he is an informational witness and not a proponent. **Mr. Morris** indicated there are positives and negatives about this bill. As far as the impact on state government, they do not have a position. **SEN. WEINBERG** asked **Mr. Morris** if he would share some of the good and bad things about the bill. **Mr. Morris** advised, on a positive note, it provides an opportunity for employees to make plans and be able to afford insurance upon retirement. It provides for individual opportunities for individuals to replace those workers should they choose to retire. It provides the possibility for employees to be hired at a lesser rate and provides savings to the state in terms of cost. On the negative side is the transfer of knowledge issue. There is an issue with being able to recruit in the current market conditions in the state. There is some question whether actual savings will occur and whether people can be hired at the rate that the assumptions are made.

SEN. GREG BARKUS said he did not think the fiscal note is right. He said employee turnover is one of the highest expenses of any business in any sector. He wondered how money could ever be saved by incentives to retire. There would be training costs and loss of knowledge. **SEN. MANGAN** responded the largest expense of any business is personnel. In a large operation like the state government, the first place to look to save money is employees. That is the basic premise behind the bill. He maintained the state has an excellent way of training.

SEN. LANE LARSON said the bill offers a window of opportunity to take the retirement incentive. He wondered if insurance is keeping a person from retiring, if they are concerned about what is going on in their job. He thought if insurance was the only thing holding some people back from retiring, he thought it was a good way to get things moving and stated support for the bill.

SEN. CORY STAPLETON liked the idea from a management standpoint. He addressed the fiscal note and asked whether it had been considered with the department finding the funds. **SEN. MANGAN** advised between **SEN. DAVE LEWIS** and himself, they had taken a look at a number of different options. This session, they decided to work together on SB 72. One of the problems in the last couple of sessions was their bills collided. If there is a better way to make it work, he is in favor of that. **SEN. STAPLETON** favored a cap on the number of people eligible and **SEN. MANGAN** indicated 800 people were eligible in the bill as introduced. With the amendments, that number has probably gone down. There are people who want to stay working. The bill addresses those who want to retire and do not because they cannot afford it. They have been wonderful state employees for a long time but may be dragging their feet. He thought the bill will take care of that.

SEN. CAROL WILLIAMS asked why the University System was excluded. **SEN. MANGAN** advised the University System did not want to be involved and the other concern was the fiscal note.

{Tape: 1; Side: B}

SEN. WILLIAMS asked if by University System, he meant the administration or the Regents. She thought the employees of the

University System would be in support of this. **SEN MANGAN** said that was right.

SEN. BOB KEENAN asked **Mr. Schneider** to clarify who in the University System was in or out of this bill. **Mr. Schneider** indicated the employees of the University System who belong to the Teachers Retirement System or the Optional Retirement System are excluded. The management and faculty of the University System are excluded; the staff people who work for the University System who belong to the Public Employees Retirement System are still in the bill. When the University System came forward, their concern was the faculty because of the problem of trying to hire faculty during that period of time when they are hiring for the fall session. They could not see how they could hire a faculty member for less salary than the one who had just retired.

CHAIRMAN MIKE COONEY asked about the first technical note on page 6 of the fiscal note. **Mr. Schneider** advised the fiscal note says it is difficult to assess the effect on the retirement system. He used to work as an actuary for the retirement system. These people have already established their retirement benefit. The only effect on the system would be that 400 people might retire this year when the actuary only assumed 200. There is no increase of retirement benefit; their benefit is established by their years of service and the age at which they retire. They did not go back and make the assumption of how many people would retire and assign a cost. **CHAIRMAN COONEY** asked about the possible impact on the retirement system if 400 or 500 people were to retire. **Mr. Schneider** replied the effect would be offset by the fact that those who should have been retiring haven't been retiring. There is no way to know a certain dollar cost or if there would be a cost. Nobody knows how many people would take advantage of this. **CHAIRMAN COONEY** asked how many people would be impacted if the bill passes in its current form. **Mr. Schneider** advised there are 1200 people who could take advantage of this bill. Before the cap was put on, there were 2200 people eligible and it was calculated that 800 people would take advantage of it. He assumed there would be 400 people maximum.

SEN. JOHN ESP referred to the comment by **Mr. Schneider** that there would be no increase in benefits in the retirement system. He asked if there would be an increase in costs temporarily and an ongoing cost for two to four years that there wouldn't be otherwise. **Mr. Schneider** said 1200 people could retire this year anyway and that cost would already be there. Everyone in this pool is eligible for retirement right now and their cost is established. **SEN. ESP** asked if those 1200 people did retire if that would increase the cost beyond what was anticipated. **Mr.**

Schneider said it would, but that is one of the uncertainties the actuary takes into consideration when they do their evaluation. They take the number of people who, on paper, could retire as of July 1, consider the history of the system, and look at how many people actually do retire. Currently, the normal number of people are not retiring so that factor has already been overestimated. Whether this number of people would bring that back to zero or would take it into a negative situation is the unknown. In the last two years, the average age of a state employee working has increased by two years. They are not losing anybody and at the same time are not hiring any younger people. If 400 people age 62 leave and 400 people between age 20 and 30 are hired, that will be a plus for the retirement system. **SEN. ESP** asked **SEN. MANGAN**, if the bill passes this time, if he anticipates there will be a groundswell of support to have a similar bill next time with a similar window of opportunity for folks two years from now. **SEN. MANGAN** said that could easily happen. He said he first started working on this in 2001. Previously, former **REP. HAL HARPER** had a similar bill in 1989 or 1991 and he was sure there were others in the past. He thought this could be used for the benefit of the plan, to bring the knowledge base up, and allow those who need to go to do so. He thought they should find a way to make this work in the long term.

SEN. RICK LAIBLE asked if vacation time, comp time, and sick leave are covered in the bill. **SEN. MANGAN** assumed all the fiscal ramifications were taken into account. **Mr. Morris** advised vacation and sick leave were included, but comp time, paid holidays, and those things that are not funded and not part of cash out and time determination were not included in the fiscal note. **SEN. LAIBLE** asked why not. **Mr. Morris** explained when an employee is terminated, they only get a quarter of their sick leave. **SEN. LAIBLE** advised he agreed with the concept of the bill but it artificially prompts the system to do something. This fiscal note is just front-ending the spending by putting retirements that would occur in the next four years into the first year. **SEN. MANGAN** said that is exactly what this bill starts doing and to address the problem. He thought there would be a lasting benefit. **SEN. LAIBLE** expressed concern about support for the same bill in two years and a continuing cycle of early retirements. That is not in the best interest of private companies and he thought the same thing would apply to agencies. **SEN. MANGAN** said this would be a test biennium.

SEN. SCHMIDT asked if the fiscal note is the first fiscal note since the bill was amended. **SEN. MANGAN** replied this is the third fiscal note on this bill and the first since the last set of amendments. **SEN. SCHMIDT** asked about the window of opportunity. **SEN. MANGAN** said the window of opportunity is the reason the bill saves money. **SEN. SCHMIDT** asked if employees had been polled. **Mr. Schneider** responded Montana Public Employee Association has 7000 members, all of whom are in one of the state retirement systems. They found about 120 people. He indicated **CHAIRMAN COONEY** has letters from more than 120 people, but **Mr. Schneider's** number did not include management. There are a lot of sides to this issue. Though this may not be the best way to address the problem of retiree health insurance costs, this is the only bill available this session because of the current retirement system. **SEN. SCHMIDT** asked **SEN. MANGAN** if this bill differs in some way from the bills in the previous sessions. **SEN. MANGAN** advised every bill he carried on this went through both Houses and ended up on the floor in House Appropriations in favor of the bill by then **REP. DAVE LEWIS.** The last bill was for every five years of service and was not capped. This is capped at four years and excludes the faculty. For the most part, the bill stayed the same for the last couple of sessions. It was a matter of priorities when it got to House Appropriations and competing bills in the last two sessions. The Lewis bill was larger in scope.

Closing by Sponsor:

SEN. MANGAN declared this was the most introspective discussion he had on the bill. There will be a year when at least half of all state employees are ready to retire. He favored addressing that in the first year of the biennium with this bill. It will give an idea of what will happen in two to four years. He cited productivity and efficiency as issues. Some employees cannot afford to retire. He contended there are savings in the bill and it would at least be neutral.

CHAIRMAN COONEY resumed the chair.

HEARING ON SB 358

{Tape: 1; Side: B; Approx. Time Counter: 27.2}

Opening Statement by Sponsor:

SEN. BOB KEENAN (R), SD 5, Bigfork, opened the hearing on **SB 358,** Allow implementation of long-term care insurance partnerships. The bill is part of the Medicaid redesign project.

{Tape: 2; Side: A}

The bill deals with long-term-care insurance for elderly Montanans. He pointed out a typographical error on page 1, line

16. Section 19-15 should be Section 1115 of Title 11, not 1915. The U.S. code should be 1315, not 1396. He said he has an amendment to that effect. The bill authorizes the Department of Health and Human Services (DPHHS) to seek a Medicaid 1115 waiver to implement a Medicaid long-term care insurance partnership to encourage and support people to purchase long-term care insurance. The Medicaid redesign committee looked at this issue and recommended developing the long-term-care insurance program using a dollar-for-dollar model. Under a dollar-for-dollar model, Medicaid disregards an amount of an individual's resources in determining medical assistance eligibility by one dollar for each dollar paid out to the individual under the individual's long-term-care insurance policy. In 1997, the Montana Legislature passed SB 69 which authorized DPHHS to develop a long-term-care insurance partnership program if certain changes in federal law came about. Those changes have not come about. This bill allows the Department to seek a waiver to implement this program after eight years of waiting for the federal government to allow this to happen. In 2005 and 2006, federal budgets include a provision to modify federal law to allow this to happen without any waiver. They are going forward with this bill, not knowing for sure if the federal government will make this an automatic option for the state or not. If not, this bill allows the Department to pursue this as a waiver to the existing law. The bill encourages people to take responsibility for their long-term-care needs. It gives people who want to protect their assets a viable alternative rather than using questionable manipulation by moving their assets around to become Medicaid eligible for senior care in nursing homes.

Proponents' Testimony:

Kelly Williams, DPHHS, provided information on long term care insurance prepared for the Medicaid Redesign Committee. SB 358 authorizes DPHHS to seek a waiver under the 1115 waiver provisions for a long-term-care insurance partnership and to encourage people to purchase long-term-care insurance. Medicaid is a health care program for low-income families, people with disabilities, and the elderly, and is jointly funded by state and federal government funds. Most of the Medicaid program is an entitlement. When a person is determined to be eligible for the program, they are entitled to all of the Medicaid services they need without regard to the level of resources allocated to the program. Services include in-patient/out-patient hospital services, pharmacy, and a variety of long-term-care services, the largest of which is nursing facility services. Many people believe the Medicaid program is unsustainable into the future and that fundamental changes to the program must be made. One of the biggest areas of concern is the impact of the aging of the baby boom generation on Medicaid expenditures for nursing home and other long-term-care services. In 2004, approximately 13% of Montanans are at 65 years of age or older and by 2011 the baby boomers are going to start turning 65 which will begin a twenty-year increase in the percent of elderly individuals. By 2025, projections indicate that 24% of Montanans will be age 65 and older. Currently, Medicaid is the largest single purchaser of services and nursing facilities, with the program paying for about 60% of the days of care in nursing homes. In 2004, Montana Medicaid spent $133 million on nursing facility care. Because Medicaid is a program for people with limited means, people who want Medicaid to pay for their care in nursing facilities must use their own assets and income before Medicaid will pay. The requirement to exhaust personal assets and income in order to become eligible for Medicaid has led some people to turn to lawyers that are estate planners to help find legal ways to restructure their finances so they become eligible for Medicaid without using the assets they have to pay for their own care. Should elderly people continue to rely on Medicaid to fund nursing facility services to the degree they currently do, especially the people who have the means to pay for their own care and take advantage of legal loopholes, the financial implications of this demographic shift on the state's budget will be staggering. Many states, including Montana, have taken and are taking steps to avert what appears to be a looming Medicaid long-term-care expenditure crisis. One such strategy is to encourage the purchase of long-term-care insurance.

EXHIBIT(fcs50a02)

Erin McGowan Fincham, State Auditor's Office, stated support for the bill. They also supported the measure in 1997, which authorized the long-term-care partnership. She offered an amendment to Section 1, subsection 2, where the Commissioner is stricken from collaborating with private insurers to implement the long-term-care insurance partnerships, and he would like to be involved in that process.

Rose Hughes, Montana Health Care Association, testified they are in support of the bill because Medicaid is for the poor and for those who cannot afford to pay for their own medical care. It is not for those who have significant assets and transfer them to get on Medicaid. The bill allows the state to apply for a waiver to try to put this insurance partnership into place. Currently, people who have assets are able to legally transfer them, and if they do it three years prior to entering the nursing home, they can make themselves eligible for Medicaid and Medicaid pays for their nursing home care. This bill provides a way to buy insurance and preserve assets. The state sets the standards for what kind of insurance policy to buy. The averages stay in a nursing home is about two years. If the standard is set at three years worth of insurance, that would cover the average stay. She did not see a downside to the bill.

Claudia Clifford, AARP, read from prepared testimony.

EXHIBIT(fcs50a03)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. HAWKS observed this is an area of insurance where cherry picking is prominent. The problem is that when anyone has a chronic illness, regardless of age, most companies won't touch them. He asked if there is a provision for those who are ineligible who have the same assets and concerns. **SEN. KEENAN** advised, no.

SEN. SCHMIDT noted she worked on the Medicaid Redesign Committee with **Ms. Hughes** and **SEN. KEENAN.** She asked if the bill was recommended by that committee. **Ms. Hughes** advised the Medicaid Redesign Committee discussed long-term-care insurance partnerships and it was one of their recommendations to move forward. This bill is the result. **SEN. SCHMIDT** asked about the three years. **Ms. Hughes** recalled there were three parts to the Medicaid redesign that have to do with long-term-care insurance and Medicaid eligibility. One was an educational component, one was this bill, and the other was a recommendation to change the look-back period from three years to five years to make it more difficult to transfer assets and get on Medicaid. There was a bill in the House, **REP. McGILLVRAY'S** bill, that died in the House Human Services Committee. **SEN. SCHMIDT** indicated there are not many insurance companies in this state that offer long-term-care insurance. An individual has to be healthy to get long-term-care insurance from a private insurance company. There is another level where it is more expensive but they might be able to get it. This would be another way to offer this to people. **Ms. Hughes** said there are group plans available on the internet. She acknowledged a chronic illness would make it more difficult. She warned the consumer has to be careful about what they are buying. There might not be policies available for all people that might need them.

{Tape: 2; Side: B}

SEN. DON RYAN asked about utilization of the income tax deduction for long-term-care insurance. **Ms. Williams** indicated in 2003, 10,603 individuals took that deduction. In 1992, when it first started, there were 6,671. **SEN. RYAN** asked her to get information to the committee about what tax bracket takes advantage of those deductions. He asked **SEN. KEENAN** if the dollar-for-dollar could be used by **SEN. LARSON** to buy long-term-care insurance for his parents, get a state tax deduction, and free up the assets of his parents for himself. **SEN. KEENAN** was not sure if the deductibility applies to **SEN. LARSON** getting the deduction for someone else. **SEN. RYAN** referred to part of the bill that said "the insurance premium paid on behalf of yourself, spouse, parent, or grandparent". Whoever wants to buy this long-term-care insurance gets an income tax deduction. The state is buying that for those people that can access this program. **SEN. KEENAN** agreed.

SEN. ESP commented the state wouldn't necessarily be buying it; there would be a deduction on their income tax but not a tax credit. The deduction would be subject to the limitations of itemized deductions. **SEN. ESP** asked **Ms. Williams** if the federal government makes some changes in policy if the long-term-care insurance partnerships could be a reality. **Ms. Williams** advised if the provision in the federal law changes, a waiver would not be needed. There is already statutory authority. **SEN. ESP** asked if the authority comes from the section of the bill that is proposed to be repealed in the bill. **Ms. Williams** clarified the federal waiver that is applied for is on line 16 of the bill. **SEN. ESP** asked, when the section refers to Title 19 of the federal Social Security Act, if that refers to the other program **Ms. Williams** said they may be able to use. **Ms. Williams** did not believe it does as that is the wrong section. **SEN. ESP** wondered if the section that created the law needs to be part of the law. **Ms. Williams** advised that would need legal review. **SEN. ESP** asked **Ms. Hughes** if those with long-term-care insurance tend to stay longer. **Ms. Hughes** advised a typical stay is for rehabilitation rather than months or years. She did not think the insurance pushes the stay but had never seen statistics. **SEN. ESP** said they have to insure for at least four years of coverage and will get a dollar reduction in the cost of the insurance to pay for the four years. After four years, their assets will be disregarded. **Ms. Hughes** replied the state will set the length of time. If it is four years, the person buys long-term-care insurance and the policy pays for the full four years. If it costs $200,000 for those four years, the state will disregard $200,000 worth of the person's assets. To the extent the person has assets in excess of $200,000 the person would still be paying with those assets. Without this bill, if the person had not bought insurance, they could have transferred their assets three years ahead of going into the nursing home and the state would have paid for those four years plus whatever additional time. The gain could be as much as that entire four years plus any other years if in fact the person transfers the assets rather than buying the insurance. **SEN. ESP** asked what is in it for the individual. **Ms. Hughes** answered they don't have to transfer all their assets prematurely. They could buy the insurance and still transfer their assets but the state would still save the four years that the insurance paid for.

SEN. KEITH BALES said a person who is willing to buy long-term-care insurance will utilize that insurance to pay for their long-term-care for a period of three or four years. The money that the insurance company pays is the amount of the net worth that person can have at the end of that time and still be eligible for Medicaid for the full value of long-term-care. That was confirmed by **Ms. Hughes**. **SEN. BALES** asked about the benefit for doing that unless they don't want to give up any of their assets in later life. **Ms. Hughes** thought, in reality, the individual is still better off financially if they simply transfer all their assets. It is hoped some would rather buy the insurance, given that option, and maintain control of the assets. This is another option for an individual to take responsibility for their own care and it is hoped that some people will do that. **SEN. BALES** said most of the long-term-care insurance will only cover living expenses. There will also be medical expenses. **Ms. Hughes** thought, typically, an older person in a nursing home has Medicare, Medicare Supplemental, and other kinds of insurance that pay for drugs, physician visits, hospitals, etc. The long-term-care costs in a nursing home are not covered by Medicare. **SEN. BALES** said any of those on Medicare would not get a one-to-one match. Only what is paid through long-term-care insurance payments would be in the one-to-one match. **Ms. Hughes** indicated Medicare pays for very little nursing home care. The one-for-one is what the insurance company pays out.

SEN. STAPLETON noted this is an important bill. He declared the new paradigm is assisted living or staying at home. If an individual waits until they are at or near death, this is incredibly expensive. He listened when the National Governor's Association was addressing Medicaid where the Heritage Foundation and the Hoover Institute agreed about the importance of encouraging the next generation to purchase long-term-care insurance when they are younger. A generation or two ago, the nation was convinced to buy life insurance. There are a broad range of companies offering this insurance. It is buying a pool of money. He thought that was problematic for the department when giving a credit because over time that amount of money will grow. If a doctor says any two of six activities of daily living can't be done anymore, it is triggered. A cash benefit policy would pay cash. In the private sector, he talks to people with a big net worth about why they need this. Many people call it nursing home insurance, but most people buy it not to go to the nursing home but rather to stay in their homes and not be a burden on their children.

SEN. WEINBERG asked **Ms. Williams** if the end result will be more people in the Medicaid system. **Ms. Williams** advised more people will come into the system just by demographics. This will be a vehicle where some may stay off the Medicaid rolls longer. **SEN. WEINBERG** recalled her testimony in a different committee that a lot of people use nursing homes in order to get back into their own homes and live independently. **Ms. Williams** advised they have transferred folks from nursing homes back into community settings with the money following them. She indicated that is a different process. SB 69 established the community-based service alternatives and are an important feature of any insurance product that meets the partnership requirement. **SEN. WEINBERG** asked if some people go into nursing homes in order to qualify for benefits from the state for when they get out of the nursing home and into an independent living situation. **Ms. Williams** clarified the Medicaid waiver is not an entitlement. They could qualify for Medicaid nursing facility benefits or community-based Medicaid whether they are in a nursing facility or assisted living. Some folks default to the nursing facility because of the unavailability of community-based options that are paid for by Medicaid. **SEN. WEINBERG** asked if this could be a cost to the state that is not reflected in the fiscal note. **Ms. Williams** responded those same people would be needing nursing facility level of care in either one of those settings. With the partnership, if the community-based option was available, they would receive insurance payments there as well. They would not be Medicaid eligible. It would work the same way as in the nursing facility settings in a community-based alternative.

{Tape: 3; Side: A}

SEN. WEINBERG asked if someone is land rich and cash poor, if people would be compelled to have to sell their ranch. **Ms. Williams** replied, yes.

SEN. RYAN asked **Ms. Hughes** if this is available if it will make a difference in admissions to certain nursing homes. **Ms. Hughes** responded right now she did not see that because nursing homes have empty beds. Occupancy in nursing homes is going down because there are alternatives available. Only those with intense medical needs are in nursing homes. In operating a nursing home, it is better, in terms of efficiency, financially, and staffing to be full. There is no cherry-picking going on currently. If all the facilities were full, there might be. Medicaid has strict guidelines about that. **SEN. RYAN** advised with the increasingly aging population, it could come up. He wondered if someone with an insurance policy can buy better care than Medicaid. **Ms. Hughes** indicated all of the nursing facilities in Montana accept both Medicare and Medicaid, private insurance, private pay, and a number of them have BA contracts. The level of care a patient receives is the same across the board. What Medicaid pays sets the stage for what can be done in a facility. If there were facilities that catered only to private pay or insurance, those facilities might be able to do something different. **SEN. RYAN** assumed Medicaid sets the minimum standards, but if people are buying private, long-term-care insurance, if there should be an expectation they will get better care. **Ms. Hughes** advised it might be an expectation, but a different level of care would not happen except in a totally private facility. **SEN. RYAN** asked **Ms. Williams** if it was possible, rather than saving money, to take the money currently put into covering more people for senior long-term Medicaid and increase the reimbursement rate to providers to increase the quality of care. **Ms. Williams** responded the level of care that needs to be provided is set by the federal government in the certification standards. If there is a huge influx of people with long-term-care insurance it might free up resources for the Legislature to redirect to fund rate increases. Most people prefer to have long-term-care in their homes. To the extent that long-term-care insurance is available in that setting that could potentially create the ability to stay in the community much longer.

SEN. BARKUS asked for comment by a representative of the insurance industry. He indicated he is licensed to sell long-term-care insurance and has been interested in the product for years but was concerned about the need to buy when younger in order to be able to afford it. He asked if there were any policies or programs that allow higher deductibles, protect the fortune of people, but give them coverage at a more reasonable price. **Frank Cote, Americas Health Insurance Plans,** said he was not aware of any. As a former deputy insurance commissioner, he understood the problem. He felt what would be beneficial in the long-term-care insurance arena is a plan with a guaranteed premium rate much like a whole-life type insurance policy where there is some guaranteed cash value and some dividends. A couple of generations ago, whole life wasn't available. People bought term insurance and whole life didn't catch on for awhile. He noted demographics are changing and there is a much greater need for long-term-care insurance. With that, people in the marketplace will start driving the insurance companies to give huge deductibles, a guaranteed premium with a cash value benefit, etc. **SEN. BARKUS** asked **Ms. Williams** if a company should develop a program that allows a $100,000 deductible with a person paying up to $100,000 long-term-care coverage. When the policy kicked in, he wondered if the policy would cover the $100,0000 that was paid out-of-pocket. **Ms. Williams** did not believe it would. The long-term-care insurance pays first; then resources have to be spent down to be eligible for Medicaid. The individual pays $100,000 up front as part of the deductible on the policy and the policy pays second. She indicated they could consider the amount of deductible when they look at certifying policies. **SEN. BARKUS** asked, if he buys a policy on himself that kicks in after thirty days and **SEN. STAPLETON** buys a policy on himself that kicks in after a hundred and twenty days, will he pay a lot more personal dollars. **Ms. Williams** said, what is paid up front out-of-pocket before the insurance kicks in isn't part of the equation in the partnership. One is the value of the insurance product and one is paying towards the benefit in a long-term-care setting. That is the part they look at for eligibility purposes. **SEN. BARKUS** observed the bill encourages someone not to be personally responsible for coverage and to get the most expensive coverage with the least benefit. The amount paid by the insurance company is the only amount that will be of benefit on the reduction of assets, not the amount paid by the individual. **Ms. Williams** said that is correct.

SEN. LAIBLE commented the bill provides an incentive for people to buy long-term health care which is in the best interest of the state. **Ms. Williams** indicated the bill, as currently drafted, gives the Department the authority to seek a waiver from the federal government and then define the components of a long-term-care insurance in conjunction with the Insurance Commissioner's office. **SEN. LAIBLE** asked if the people most interested in the partnership will be trying to protect their house for their children. The wealthy will either pay for their long-term-care coverage and take the tax deduction or find a way to hide their assets within three years. The bill would involve a small portion of the population. **Ms. Williams** advised it would be those who want to pass something on to their family members. It is not always possible to plan for the three years out. The insurance will protect for the unforseen. It will allow individuals to retain control of their assets.

Closing by Sponsor:

SEN. KEENAN advised, the recommendation that came out of the Medicaid redesign committee was to develop a long-term-care education program and the Department was asked to do that. This bill wasn't really a direct recommendation of the committee. He referred to a survey of Medicaid eligibility technicians that indicated the average transfer of assets was $52,000. They range from $800 to $500,000. In the six months previous to this survey, these technicians saw $3.8 million in transfers in Montana. The national average for nursing home care is $52,000 a year and five hours a day, five days a week in-home care is $20,000.

ADJOURNMENT

Adjournment: 11:15 A.M.

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SEN. MIKE COONEY, Chairman

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PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT(fcs50aad0.TIF)